

## Message Text

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EA ONLY

E.O. 11652: GDS

TAGS: SHUM, BM

SUBJECT: HUMAN RIGHTS COUNTRY EVALUATION PLAN

1. THE HUMAN RIGHTS COUNTRY EVALUATION PLAN FOR BURMA HAS BEEN COMPLETED, CLEARED WITHIN THE DEPARTMENT AND APPROVED BY THE BUREAU OF HUMANITARIAN AFFAIRS (HA). PART A AND THE INTRODUCTION WILL BE SUBMITTED TO CONGRESS AS PART OF THE CONGRESSIONAL PRESENTATION DOCUMENT (CPD), WHILE PART B WILL REMAIN CLASSIFIED. THE TEXT OF PART A APPEARS BELOW. PART B WILL FOLLOW SEPTEL. CURRENT PLANS ARE FOR PART B TO BE REVIEWED BY THE INTERAGENCY COMMITTEE ON HUMAN RIGHTS (THE CHRISTOPHER COMMITTEE) AT A LATER DATE. PART A WAS SUPPOSED TO BE TYPED IN THE SPECIAL FORMAT FOR THE CPD AND SUBMITTED TO THE DEPUTY SECRETARY BY DECEMBER 15 IN ORDER TO MEET A TIGHT SCHEDULE FOR FINAL SEVENTH FLOOR REVIEW AND PRINTING, BUT A NUMBER OF REPORTS ARE RUNNING LATE. THE TEXT IS BASED ON OR INCORPORATES MAJOR ELEMENTS FROM EMBASSY'S PREVIOUS COMMENTS AND CONFIDENTIAL

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REPORTS.

2. TEXT OF PART A IS BEING TRANSMITTED FOR YOUR INFORMATION AND COMMENTS BUT NOT FOR DETAILED CLEARANCE OR ALTERATION GIVEN THE CONSTRAINTS UNDER WHICH WE ARE OPERATING. IF POSTS FIND MAJOR FACTUAL ERRORS OR BELIEVE

SEVERE DAMAGE WILL RESULT TO U.S. INTERESTS FROM SPECIFIC STATEMENTS, WE SHOULD BE INFORMED BY IMMEDIATE TELEGRAM WITH EA ONLY CAPTIONS. INSTRUCTIONS WILL BE GIVEN LATER

CONCERNING ADVANCE NOTIFICATION OF HOST GOVERNMENTS. WHILE ANY COMMENTS ON PART B NEED NOT BE TRANSMITTED AS URGENTLY AS PART A, YOU SHOULD BE AWARE THAT CHANGES WILL BE EXTREMELY DIFFICULT TO EFFECT AT THIS ADVANCED STAGE FOLLOWING "FINAL" CLEARANCES. TEXT FOLLOWS:

BEGIN TEXT.

HUMAN RIGHTS COUNTRY EVALUATION PLAN: BURMA

#### INTRODUCTION

THE SOCIALIST REPUBLIC OF THE UNION OF BURMA IS GOVERNED UNDER A CONSTITUTION PROMULGATED IN 1974 AFTER APPROVAL BY NATIONAL REFERENDUM. UNDER THIS STATE SOCIALISM-STYLED BASIC LAW, PRESIDENT NE WIN PRESIDES OVER A ONE-PARTY FORM OF PARLIAMENTARY GOVERNMENT AND SERVES AS CHAIRMAN OF THE SOLE LEGAL POLITICAL PARTY -- THE BURMA SOCIALIST PROGRAM PARTY (BSPP). FREEDOM OF EXPRESSION AND ASSOCIATION ARE RESTRICTED AS IN OTHER ONE-PARTY POLITICAL SYSTEMS. FREEDOM OF RELIGION, HOWEVER, IS A BASIC TENET OF THE 1974 CONSTITUTION AND THE GOVERNMENT.

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A 1975 LAW PERMITS DETENTION WITHOUT CHARGE, BUT IN PRACTICE THIS POWER HAS BEEN USED BY THE BURMESE GOVERNMENT ONLY IN TIMES OF WIDESPREAD PUBLIC DISTURBANCES OR INTRA-PARTY POLITICAL REALIGNMENTS. DETAINEES HAVE EITHER BEEN RELEASED ONCE THE CRISIS HAS PASSED, OR FORMALLY CHARGED WITH CRIMES AGAINST PUBLIC ORDER OR THE STATE. THE BURMESE GOVERNMENT IS NOT KNOWN TO ENGAGE IN PHYSICAL TORTURE OR OTHER FORMS OF CRUEL, INHUMAN OR DEGRADING TREATMENT, AND WE ARE UNAWARE OF OTHER THAN PUBLIC TRIALS.

RESTRICTIONS EXIST ON TRAVEL WITHIN THE COUNTRY AND ABROAD, AND EMIGRATION IS A LENGTHY AND EXPENSIVE PROCESS. THE RESTRICTIONS ARE JUSTIFIED BY THE GOVERNMENT AS NECESSARY FOR INTERNAL SECURITY REASONS AND THE NEED TO CONSERVE FOREIGN EXCHANGE. EMIGRATION IS DISCOURAGED IN ORDER TO RETAIN EDUCATED PERSONS WITHIN THE COUNTRY AND LIMIT EXPOSURE TO WHAT IS CONSIDERED DECADENT WESTERN CULTURE. IN SUM, HUMAN RIGHTS PROBLEMS IN BURMA ARE ALSO FOUND IN OTHER DEVELOPING COUNTRIES WITH SIMILAR POLITICAL SYSTEMS AND ACTIVE ANTI-GOVERNMENT INSURGENCIES.

#### A. CONDITION OF HUMAN RIGHTS IN BURMA

##### 1. RESPECT FOR THE INTEGRITY OF THE PERSON

A) FREEDOM FROM TORTURE: THERE IS NO EVIDENCE THAT THE BURMESE GOVERNMENT USES OR CONDONES TORTURE ON

PRISONERS. IN THE PAST THERE HAVE BEEN OCCASIONAL REPORTS THAT SUSPECTS ACCUSED OF SUBVERSION OR OTHER ANTI-GOVERNMENT ACTIVITIES HAVE BEEN SUBJECTED TO PSYCHOLOGICAL INTIMIDATION (LONG PERIODS OF ISOLATION, ENFORCED SLEEPLESSNESS, DISORIENTATION TACTICS) TO BREAK DOWN THEIR RESISTANCE TO INTERROGATION.

B) FREEDOM FROM CRUEL, INHUMAN OR DEGRADING PUNISH-  
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MENT: WE ARE NOT AWARE OF ANY INTENTIONAL CRUEL, INHUMAN OR DEGRADING PUNISHMENT EMPLOYED BY THE BURMESE GOVERNMENT. CONDITIONS IN BURMESE JAILS ARE POOR, BUT ARE THE RESULT OF THE OVERALL LOW STANDARD OF LIVING IN THE COUNTRY. ALTHOUGH THE COURTS OCCASIONALLY METE OUT THE DEATH PENALTY FOR OFFENSES SUCH AS TREASON, IN PRACTICE THE SENTENCES HAVE BEEN COMMUTED TO LIFE IMPRISONMENT.

C) FREEDOM FROM ARBITRARY ARREST OR IMPRISONMENT:  
WIDESPREAD ARRESTS ON POLITICAL CHARGES OCCURRED UNDER THE REVOLUTIONARY COUNCIL IN 1962, 1965 AND 1972. MOST, IF NOT ALL, OF THOSE ARRESTED WERE SUBSEQUENTLY RELEASED. IN INSTANCES OF WIDESPREAD PUBLIC DISTURBANCES, MASS ARRESTS HAVE BEEN MADE. THERE WERE ALSO A LARGE NUMBER OF ARRESTS IN 1976 AND 1977 AFTER PLOTS AGAINST THE GUB WERE UNCOVERED, AND RECENTLY IN THE WAKE OF A BURMA SOCIALIST PROGRAMME PARTY INTERNAL REALIGNMENT. THE 1974 CONSTITUTION PROHIBITS DETENTION WITHOUT CHARGE BEYOND 24 HOURS, BUT A 1975 ANTI-SUBVERSION LAW IN EFFECT SUSPENDS THIS PROVISION. HOWEVER, DETAINEES HAVE BEEN RELEASED WITHIN A SHORT TIME OR CHARGED UNDER CRIMINAL STATUTES DEALING WITH PUBLIC DISORDER OR ANTI-GOVERNMENT CONDUCT. THIS IS REFLECTED IN AMNESTY INTERNATIONAL'S 1975-76 ANNUAL REPORT WHICH NOTED THAT STUDENTS ARRESTED DURING 1975 WERE SENTENCED TO LONG PRISON TERMS.

D) FREEDOM FROM DENIAL OF A FAIR PUBLIC TRIAL:  
THE 1974 CONSTITUTION PROVIDES BURMESE CITIZENS ACCESS TO THE COURTS AND A PUBLIC HEARING FOR ANY GRIEVANCES OR CHARGES AGAINST THEM. WE ARE UNAWARE OF OTHER THAN PUBLIC TRIALS IN BURMA SINCE THAT DATE. THE BURDEN OF PROOF IS UPON THE PROSECUTION AND THE ACCUSED HAS THE RIGHT TO AN ATTORNEY. A SYSTEM OF PEOPLE'S COURTS HANDLES  
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MANY LOCAL PROBLEMS, INCLUDING CIVIL DISPUTES AND ANTI-SOCIAL BEHAVIOR, GENERALLY IN ACCORDANCE WITH TRADITIONAL BURMESE NOTIONS OF COMMUNITY HARMONY AND COMMON SENSE FAIR PLAY.

E) FREEDOM FROM INVASION OF THE HOME: TO OUR KNOWLEDGE THE PRIVACY OF THE HOME IS GENERALLY RESPECTED BY THE BURMESE GOVERNMENT. AN EXCEPTION IS DURING PUBLIC DISTURBANCES AND ACTUAL COMBAT OPERATIONS, PARTICULARLY IN INSURGENT AREAS. THE 1974 CONSTITUTION GUARANTEES THE PRIVACY AND SECURITY OF THE HOME.

## 2. RESPECT FOR CIVIL AND POLITICAL LIBERTIES

A) FREEDOM OF THOUGHT, RELIGION AND ASSEMBLY:  
FREEDOM OF EXPRESSION IS LIMITED IN BURMA. WHILE PRIVATE STATEMENTS OF DISCONTENT WITH THE GOVERNMENT ARE ACCEPTABLE, PUBLIC DECLARATIONS IN OPPOSITION TO THE REGIME ARE NOT TOLERATED. PUBLIC MEDIA ARE GOVERNMENT-OWNED AND CONTROLLED, AND THE LIMITED FOREIGN PUBLICATIONS PERMITTED TO BE IMPORTED ARE OCCASIONALLY CENSORED. FOREIGN RADIO BROADCASTS ARE WIDELY AND FREELY AVAILABLE.

FREEDOM OF RELIGION IS A BASIC TENET OF THE 1974 CONSTITUTION AND IS TO OUR KNOWLEDGE WIDELY OBSERVED. FREEDOM OF ASSEMBLY, HOWEVER, IS RESTRICTED. INDEPENDENT, SECULAR MASS ORGANIZATIONS (INCLUDING LABOR UNIONS) ARE BANNED. INSTEAD, A NETWORK OF PARTY-SPONSORED WORKERS' AND PEASANTS' ORGANIZATIONS, YOUTH LEAGUES, AND SIMILAR GROUPS HAVE BEEN FORMED. THE WORKERS' ORGANIZATIONS, LIKE THE OTHER MASS ORGANIZATIONS, PROVIDE SOME OPPORTUNITY FOR EXPRESSION OF THE VIEWS OF ORDINARY CITIZENS, BUT LARGELY SERVE AS A MEANS OF COMMUNICATING NATIONAL POLICIES AND IMPLEMENTING GOVERNMENT PROGRAMS.

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B) FREEDOM OF MOVEMENT, FOREIGN TRAVEL AND EMIGRATION POLICIES: THE 1974 CONSTITUTION GUARANTEES THE RIGHT OF CITIZENS TO LIVE ANYWHERE WITHIN BURMA. EXCEPTIONS APPLY TO MILITARY AREAS OR AREAS OF INSURGENT ACTIVITY. NON-CITIZEN RESIDENTS OF BURMA (PRIMARILY INDIANS OR CHINESE, MANY OF WHOM WERE BORN IN BURMA) ARE ALSO SUBJECT TO TRAVEL RESTRICTIONS. THEY MAY NOT CHANGE THEIR RESIDENCE FREELY, AND REQUIRE AN INTERNAL VISA FROM THE LOCAL PEOPLE'S COUNCIL FOR ANY TRAVEL WITHIN BURMA.

IN PRACTICE, FOREIGN TRAVEL IS DENIED TO ALL BUT A FEW BURMESE, MOSTLY MILITARY AND GOVERNMENT OFFICIALS OR

PARTICIPANTS IN OFFICIALLY-SPONSORED OR SANCTIONED EXCHANGE PROGRAMS. RECENTLY, IN AN APPARENT EFFORT TO INCREASE FOREIGN REMITTANCES, BURMESE WITH WORK PERMITS IN HAND ARE PERMITTED TO LEAVE TEMPORARILY. EMIGRATION IS PERMITTED, ALTHOUGH BUREAUCRATIC AND LEGAL REQUIREMENTS MAKE IT A LENGTHY AND EXPENSIVE PROCESS FOR MOST BURMESE. THE INTENDING EMIGRANT MUST RESIGN ANY GOVERNMENT JOB,

REPAY THE GOVERNMENT FOR ANY HIGHER EDUCATION, AND PAY ADVANCE INCOME TAX ON ANTICIPATED EARNINGS ABROAD. EMIGRES WHO HAVE ADOPTED FOREIGN CITIZENSHIP WERE UNTIL RECENTLY NOT PERMITTED TO RETURN TO BURMA FOR EVEN A TEMPORARY VISIT. THIS RESTRICTION APPEARS TO HAVE BEEN RELAXED SOMEWHAT IN LATE 1976.

C) FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS:  
THE SOCIALIST REPUBLIC OF THE UNION OF BURMA IS GOVERNED UNDER A CONSTITUTION PROMULGATED IN 1974 AFTER APPROVAL BY A NATIONAL REFERENDUM. UNDER THIS STATE SOCIALIST-STYLED BASIC LAW, PRESIDENT NE WIN PRESIDES OVER A ONE-PARTY FORM OF PARLIAMENTARY GOVERNMENT. THE PRESIDENT IS ALSO CONFIDENTIAL

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CHAIRMAN OF THE SOLE LEGAL POLITICAL PARTY -- THE BURMA SOCIALIST PROGRAM PARTY (BSPP). THE ELECTORATE HAS LIMITED CHOICE IN NATIONAL AND LOCAL ELECTIONS, SINCE CANDIDATES FOR PUBLIC OFFICE ARE LARGELY PRE-DETERMINED BY THE PARTY. THE ELECTION LISTS DO INCLUDE, HOWEVER, NON-BSPP CANDIDATES -- SOME OF WHOM ARE ELECTED TO OFFICE.

### 3. THE FULFILLMENT OF BASIC NEEDS FOR FOOD, SHELTER, HEALTH CARE AND EDUCATION

A) BURMA'S ANNUAL PER CAPITA GNP OF SLIGHTLY MORE THAN \$100 PLACES IT CLEARLY AMONG THE WORLD'S LEAST DEVELOPED COUNTRIES IN ECONOMIC TERMS. THIS FACT ACCORDINGLY SEVERELY RESTRICTS THE GOVERNMENT'S ABILITY TO IMPROVE LIVING CONDITIONS. MOST LOCAL AND FOREIGN OBSERVERS ATTRIBUTE THE LOW GROWTH RATE OF THIS POTENTIALLY PROSPEROUS NATION TO THE INEFFECTIVENESS OF ECONOMIC POLICIES AND THE HEAVY HAND OF A CENTRALIZED BUREAUCRACY. IN SOME AREAS, THE STANDARD OF LIVING HAS FALLEN BELOW THAT EXISTING WHEN THE CURRENT GOVERNMENT TOOK POWER IN 1962. THE BURMESE GOVERNMENT HAS, HOWEVER, DONE A REMARKABLE JOB OF ECONOMIC LEVELING, AND HAS MADE REAL EFFORTS, HOWEVER INEFFECTIVE, TO PROVIDE BASIC NEEDS FOR ITS CITIZENS.

B) AS IN MANY DEVELOPING COUNTRIES, THE MILITARY AND POLITICAL ELITE GENERALLY ENJOY A HIGHER STANDARD

OF LIVING THAN MOST ORDINARY BURMESE. SINCE VIRTUALLY THE WHOLE COUNTRY IS INVOLVED IN OR TACITLY SUPPORTS A SHADOW BLACK MARKET ECONOMY (BOTH FOREIGN AND DOMESTIC), THE ELITE PROBABLY DOES NOT BENEFIT SIGNIFICANTLY FROM CORRUPTION AS MUCH AS FROM PRIVILEGED ACCESS TO HOUSING, FOOD SUPPLIES, CONSUMER GOODS AND HEALTH CARE FACILITIES.

### 4. GOVERNMENTAL RESPONSIBILITY FOR THE HUMAN RIGHTS CONFIDENTIAL

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SITUATION

THE BURMESE GOVERNMENT, AND THE PARTY AND ARMY ON WHICH ITS CONTROL DEPENDS, IS RESPONSIBLE FOR THE CONDITION OF HUMAN RIGHTS IN BURMA. THE GOVERNMENT AND ITS DECISION-MAKING ENTITIES ARE PERVASIVE THROUGHOUT BURMESE SOCIETY, EVEN IF ACTUAL CONTROL OF THE ECONOMY AND POLITICAL LIFE IS FAR FROM COMPLETE. AT THE SAME TIME, CERTAIN POSITIVE FEATURES OF THE RECORD MUST ALSO BE CREDITED TO THE GOVERNMENT. FOR EXAMPLE, ALTHOUGH RELIGIOUS FREEDOM IS LARGELY A PRODUCT OF THE TRADITIONAL BUDDHIST TOLERANCE OF OTHER FAITHS, THE RECORD OF THE PRESENT GOVERNMENT HAS BEEN BETTER THAN THAT OF THE PREVIOUS ONE IN THIS AREA. THE HOLDING OF PUBLIC TRIALS AND PROVISION OF DUE PROCESS FOR THOSE CHARGED WITH CRIMES MUST ALSO BE ATTRIBUTED TO THE GOVERNMENT'S ADOPTION OF A LEGAL SYSTEM INSPIRED BOTH BY TRADITIONAL BURMESE LAW AND BRITISH LEGAL CONCEPTS.

THE AREAS IN WHICH THE HUMAN RIGHTS RECORD CAUSES CONCERN ARE CONSIDERED INHERENTLY JUSTIFIED IN THE EYES OF THE BURMESE GOVERNMENT. FOR EXAMPLE, THE CONTINUING INSURGENCY PROBLEM PROVIDES THE BASIS FOR INTERNAL TRAVEL RESTRICTIONS AND OTHER EXTRAORDINARY ACTIONS. IT ALSO ACTS TO DRAIN RESOURCES THAT MIGHT BE EXPENDED IN THE FULFILLMENT OF BASIC NEEDS OF THE POPULATION. ALTHOUGH ONLY ONE POLITICAL PARTY IS PERMITTED, THIS PROVISION IS PART OF THE 1974 CONSTITUTION WHICH -- AS THE GOVERNMENT WOULD BE QUICK TO POINT OUT -- WAS ADOPTED BY PUBLIC REFERENDUM. RESTRICTIONS ON FOREIGN TRAVEL AND EMIGRATION ARE LARGELY PREDICATED ON THE NEED TO CONSERVE SCARCE FOREIGN EXCHANGE AND RETAIN EDUCATED PERSONS WITHIN THE COUNTRY.

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5. ATTITUDE TOWARD INDEPENDENT, OUTSIDE INVESTIGATIONS

WE ARE NOT AWARE OF ANY INDEPENDENT, OUTSIDE INVESTIGATIONS OF HUMAN RIGHTS CONDUCTED WITHIN BURMA. NOR HAVE

WE HEARD OF ANY CALLS FOR SUCH INVESTIGATIONS BY INTERNATIONALLY-RECOGNIZED ORGANIZATIONS. THE BURMESE GOVERNMENT ALMOST CERTAINLY WOULD NOT BE WILLING TO PERMIT SUCH INVESTIGATIONS. END TEXT. VANCE

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## Message Attributes

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